



Town of Lexington

PLANNING BOARD

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Robert D. Peters, Vice Chair
Michael Schanbacher, Clerk
Melanie Thompson, Member
Robert Creech, Member
Michael Leon, Associate Member

RECOMMENDATION REPORT OF THE LEXINGTON PLANNING BOARD ARTICLE 35: AMEND ZONING BYLAW - OPEN SPACE RESIDENTIAL DEVELOPMENTS

RECOMMENDATION

By a vote of 4-0-1, with Mr. Creech abstaining, the Planning Board recommends that Town Meeting **APPROVE** the motion under Article 35.

SUMMARY

This proposed amendment provides an alternative residential development process that would create small dwelling units through a by-right site plan review process that preserves open space, incentivizes historic building preservation and requires affordable units. Under Massachusetts General Law (MGL) c. 40, Open Space Residential Developments (OSRDs) allow housing developments where buildings and accessory uses are clustered together in one or more groups separated from each other and adjacent property by intervening open land. As proposed under Article 35, OSRDs would provide an attractive alternative to conventional subdivisions that support Lexington's housing goals by preserving open space, permitting diverse housing types, producing small dwelling units, producing affordable and workforce housing, and providing incentives to preserve historic buildings. This bylaw provides flexibility for developers to adapt each proposed development to better meet the needs of the community.

JUSTIFICATION FOR RECOMMENDATION

A similar proposal was presented at Special Town Meeting 2021-2 but failed by a slim margin. Many Town Meeting Members supported the concepts of the amendment but felt that it could be improved and encouraged the Planning Board to keep working on it.

The Public Hearing brought forth many thoughtful ideas and comments. The Planning Board carefully considered all comments and revised the zoning language in response to many of them. Because of the efforts of all, the proposed amendment is much improved. The Planning Board acknowledges that not everyone's ideas were incorporated as there were conflicting points of view. The Planning Board appreciates the input it received.

One Board member abstained from the vote because there was still some uncertainty and would like more public outreach and staff analysis. This Board member felt this zoning change requires either very specific requirements based upon staff analysis or permitting via the special permit process. Everything should be done to insure good results for both the Town and its residents.

DESCRIPTION

The motion under the Article 35 adds a new section §135-6.12 to the zoning bylaw providing for Open Space Residential Developments (OSRDs).

- An OSRD is a plan to develop a tract of land via site plan review by the Planning Board.
- In order to qualify, the proof plan must show at least a two-lot conventional subdivision on a tract of land of at least 70,000 SF.
- OSRDs provide flexibility in lot layout, number of dwellings, number of dwelling units, and types of dwellings while maintaining limits on building height and minimum required yards on the perimeter of the site.
- The number of market rate dwelling units in an OSRD must not exceed five (5) times the number of lots shown on the proof plan unless allowed by special permit.
- Each dwelling unit must have exclusive access to 180 square feet of outdoor amenity space.
- The gross floor area (GFA) of the development is limited in a variety of ways, based on what would be permitted in a conventional subdivision:
 - The total GFA of the market-rate dwelling units is limited to what would be permitted in a conventional subdivision.
 - The GFA of each building is limited to 9,350 SF in the RO District and 7,030 SF in the RS and RT Districts, the same or less than that permitted in a conventional subdivision.
 - The average GFA of all dwelling units is limited to 2,625 SF (equivalent to a net floor area of 2,100 SF), with an absolute upper limit of 5,250 SF (4,200 SF net floor area).
- An OSRD must provide one off-street visitor parking space for each four dwelling units.
- At least 35% of the developable site area within an OSRD must be set aside as Open Land which must be preserved in its natural state.
- At least 15% of the developable site area within an OSRD must be set aside as Common Open Space for the common use of the residents.
- At least 20% of the gross floor area of all dwelling units must be incorporated into dwelling units with restricted prices, rents, and occupant incomes, which are called inclusionary dwelling units.
- At least 10% of the dwelling units in an OSRD shall be eligible for inclusion on the DHCD Subsidized Housing Inventory.
- If an OSRD incorporates a historic building for which the developer has negotiated a historic preservation restriction with the Historic Commission, that building is exempt from the gross floor area and open land calculations. Inclusionary dwelling units can be in the historic building.

PUBLIC HEARING PROCESS

On Wednesday, February 2, 2022, after publication of the legal advertisement in the Lexington Minuteman Newspaper on January 13 and 20, 2022, the Planning Board opened its public hearing. Continued public hearings were held on Wednesday, February 16 and 23, 2022. The Planning Board voted to close the public hearing on February 23, 2022. The Board deliberated the merits of the public comments and revised the proposed motion accordingly. The Board voted 4-0-1, with Mr. Creech

abstaining, to recommend that Town Meeting **APPROVE** the motion under Article 35 at its February 16, 2022 meeting.

PUBLIC HEARING MINUTES

FEBRUARY 2, 2022

Members present were: Charles Hornig, Chair; Robert Peters, Vice-chair; Michael Schanbacher, Clerk; Robert Creech, Member; Melanie Thompson, Member and Michael Leon, Associate Member.

Mr. Hornig opened the public hearing. Mr. Hornig said this will be continued to February 16 without testimony.

Robert Peters moved that the Planning Board continue the public hearing on Article 35: Amend Zoning Bylaw – Open Space Residential Development to Wednesday, February 16, 2022 at 7:00 p.m. Michael Schanbacher seconded the motion. The Planning Board voted in favor of the motion 5-0-0 (roll call: Bob Creech – yes; Robert Peters – yes; Michael Schanbacher – yes; Melanie Thompson – yes; Charles Hornig - yes) MOTION PASSED

FEBRUARY 16, 2022

Members present were: Charles Hornig, Chair; Robert Peters, Vice-chair; Michael Schanbacher, Clerk; Robert Creech, Member; Melanie Thompson, Member and Michael Leon, Associate Member.

Mr. Hornig opened the public hearing.

Robert Peters moved that the Planning Board continue the public hearing for Article 35, Amend Zoning bylaw – Open Space Residential Developments, to Wednesday, February 23, 2022 at 6:00 p.m. Michael Schanbacher seconded the motion. The Planning Board voted in favor of the motion 5-0-0 (roll call: Bob Creech – yes; Robert Peters – yes; Michael Schanbacher – yes; Melanie Thompson – yes; Charles Hornig - yes) MOTION PASSED

FEBRUARY 23, 2022

Members present were: Charles Hornig, Chair; Robert Peters, Vice-chair; Michael Schanbacher, Clerk; Robert Creech, Member; Melanie Thompson, Member and Michael Leon, Associate Member.

Mr. Hornig opened the continued public hearing. Mr. Peters gave a presentation on Article 35: Amend Zoning Bylaw – Open Space Residential Developments.

Board Member Comments:

- Mr. Schanbacher had no comments or questions.
- Ms. Thompson had no comments or questions.
- Mr. Creech had questions that he will hold until after public comments.
- Mr. Leon said he would wait until after public comments.
- Mr. Hornig said with this and Article 36 he will recommend they will use the same provisions for inclusionary housing. There is every intent that the changes proposed in Article 40 would

apply to these developments as well.

Public Comments and Questions:

- Mr. Shiple and Ms. Katzenberg gave a presentation from the Lexington Cluster Housing Study Group and provided the purpose of the study group on cluster housing issues that include simplifying bylaw language, restating the incentive in terms of site coverage, how open space would be managed, protected, and the purpose.
- Will the buffer zones of the wetlands areas will be part of the 35% open land required? Would the 10% affordable units be enough?
- The Vice Chair of the Historical Commission, representing the Commission, said it does not support this OSRD in its current form since it does not require explicit approval for the overall preservation plan for the entire site. The committee made suggestions to expand the purpose to include historic features, recognize standards for preservation, include the Historical Commission in the Site Plan Review process, and include a look-back period for at least 12 months.
- Who would own the common land?
- How would this affect the population of Lexington over time if it was approved as opposed to if it wasn't approved? If someone qualifies for an affordable unit at first and over time no longer qualifies what how does that affect the property and does it still count towards our quota of affordable housing?
- A request for clarification was made for a definition of "In its Natural State" for this article and there should be a clause to define that. Restoration of degraded land should be included in this proposed article.
- There should be a requirement added for a minimum tract of land of 60,000 square feet. The GFA should be based on conventional proof plans minus the wetlands. The inclusionary housing should be constructed to be equitable to market-rate units and have a universal design and developed for those with disabilities. There should be joint regulations created by the Select Board, Affordable Housing Partnership and Planning Board for AMI levels. Units should not be constructed on historical structures, there should be a strong purpose statement regarding equitable construction materials and site amenities, and regulations to accompany bylaw changes.
- Find a way to add sustainable design standards to this article as incentives.
- Clarification was requested for what is the minimum viable lot size for an OSRD and said it should be stated in the article.
- Is it possible to create a visual representation of what a possible site could look like under this proposal as opposed to other existing proposals for Town Meeting?
- A resident is opposed to the by-right position of this article.

Mr. Hornig asked the Board whether to move this Article forward to Town Meeting.

- Mr. Schanbacher said yes with adding some of the suggested changes.
- Mr. Peters said he was comfortable with that as long as we can still get written comments.
- Ms. Thompson said yes and incorporate some of the changes to provide more clarity.
- Mr. Creech said regarding affordable it would benefit to have a hypothetical example, he wanted this article to be made by special permit and not by-right. He will be more flexible if there is enough specificity in the bylaw. He was concerned that we can get what we want through site plan review.

- Mr. Leon said there was a lot of thoughtful comments tonight and was concerned about processing issues of the by-right as opposed to special permits.
- Mr. Hornig said that the SPRD committee chose to let this OSRD article move forward last year and run parallel to their work and that they did not want to take this up. The SPRD will be doing everything as by-right with site plan review and no special permits.

It was requested that the public hearing should be kept open since people were on school vacation.

Robert Peters moved that the Planning Board close the public hearing Article 35, Amend Zoning Bylaw for Open Space Residential Developments. Michael Schanbacher seconded the motion. The Planning Board voted in favor of the motion 4-1-0 (roll call: Bob Creech – no; Robert Peters – yes; Michael Schanbacher – yes; Melanie Thompson – yes; Charles Hornig – yes) MOTION PASSED

MARCH 23, 2022 PLANNING BOARD VOTE

Robert Peters moved that the Planning Board recommend that Annual Town Meeting approve Article 35 as amended on March 23, 2022 with corrections for any typographical errors. Michael Schanbacher seconded the motion. The Planning Board voted in favor of the motion 5-0 (Roll call: Robert Peters – yes; Michael Schanbacher – yes; Melanie Thompson – yes; Robert Creech – yes; Charles Hornig – yes). MOTION PASSED

Charles Hornig. yes
 Robert Peters.yes
 Michael Schanbacheryes
 Robert Creech. yes
 Melanie Thompson. yes

For the Planning Board,


 Charles Hornig, Chair